

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division

REGINALD C. MITCHELL and  
MARY E. MITCHELL,

Plaintiffs,

v.

Civil Case No. 4:14cv169

OCWEN LOAN SERVICES, LLC,

Defendant.

MEMORANDUM ORDER

This matter is before the Court on Plaintiffs', Reginald C. Mitchell and Mary E. Mitchell (collectively, "Plaintiffs"), Motion to Enforce Settlement Agreement. ECF No. 30.

Plaintiffs and Defendant, Ocwen Loan Services, LLC ("Defendant"), reached a final settlement agreement in this case in August 2015. See Mem. in Supp. of Mot. to Enforce Settlement Agreement, 2, ECF No. 31. Plaintiffs' claims against Defendant were dismissed with prejudice on September 2, 2015. Dismissal Order, ECF No. 27. As explained in the Dismissal Order, the Court retained jurisdiction for the purpose of enforcing the settlement agreement between the parties. Id.

On December 18, 2015, Plaintiffs filed their Motion to Enforce the Settlement Agreement, arguing that Defendant had failed to perform its obligations under the settlement agreement and seeking

attorneys' fees and costs associated with the Motion to Enforce. Defendant opposed the Motion to Enforce, and the matter was referred to United States Magistrate Judge Robert J. Krask, pursuant to 28 U.S.C. § 636(b)(3) and Local Civil Rule 72, on January 27, 2016. Order, ECF No. 49. On February 16, 2016, Magistrate Judge Robert J. Krask issued a Report and Recommendation, ECF No. 53, recommending that the Court grant Plaintiffs' Motion to Enforce Settlement Agreement and award Plaintiffs their reasonable expenses and attorneys' fees. By copy of the Report and Recommendation, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation, and the time for filing the same has expired.

The Court, having reviewed the record and the Magistrate Judge's Report and Recommendation, therefore **ADOPTS** the findings and recommendations set forth in the Report and Recommendation, and **GRANTS** Plaintiffs' Motion to Enforce Settlement Agreement, ECF No. 30. If the parties are unable to resolve the amount of expenses and attorneys' fees due, the Court **DIRECTS** Plaintiffs to submit, **within thirty (30) days** of the entry of this Memorandum Order, a motion substantiating their reasonable expenses and attorneys' fees, as indicated at pages 9-10 of the Report and Recommendation. To the extent such a motion is necessary, it should be accompanied by affidavits of counsel, billing records, and any other necessary

evidence, to include affidavits of outside counsel and/or citations to fee awards in similar cases from this area, as the fee applicant bears the burden of proving the reasonableness of the hours billed and the requested hourly rates. See Tattoo Art, Inc. v. Tat Int'l, LLC, No. 2:10CV323, 2012 WL 3912739, at \*2-\*3 (E.D. Va. Sept. 7, 2012) (citing Robinson v. Equifax Info. Servs., LLC, 560 F.3d 235, 243 (4th Cir. 2009); Grissom v. The Mills Corp., 549 F.3d 313, 320 (4th Cir. 2008); Spell v. McDaniel, 824 F.2d 1380, 1402 (4th Cir. 1987)).

The Clerk is **DIRECTED** to send a copy of this Memorandum Order to all counsel of record.

**IT IS SO ORDERED.**

March 18, 2016  
Norfolk, Virginia

/s/   
Mark S. Davis  
United States District Judge